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SPHERION ATLANTIC ENTERPRISES LLC

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

PHILIP J. MARTINET, Individually, On Behalf of All Others Similarly Situated, and on Behalf of the General Public, Plaintiff, v. SPHERION ATLANTIC ENTERPRISES LLC, a Delaware Limited Liability Company; and DOES 1 through 50, inclusive, Defendant.	Case No. 07 CV 2178 W (AJB) **DECLARATION OF JOAN L. ORZO IN SUPPORT OF DEFENDANT'S MOTION FOR A PROTECTIVE ORDER UNDER FEDERAL RULE OF CIVIL PROCEDURE 26(c)** **Date:** **May 16, 2008** **Time:** **10:00am** **Courtroom:** **A – First Floor** **Judge:** **Hon. Anthony J. Battaglia**

I, Joan L. Orzo, declare:

1. I am a human resources manager for Spherion Atlantic Enterprises LLC. I have personal knowledge of the facts set forth in this declaration and if called as a witness, I would and could testify to the truth of these matters.

2. I am employed by Spherion Atlantic Enterprises LLC and work out of Dallas, Texas. I have been employed by the company since 1992. I am currently a human resources manager for the staffing services unit of the company.

3. As a corporate human resources manger, I manage employee relations and support field operations throughout the company including Spherion Atlantic's staffing services operations in California. In that capacity, my current duties include providing management support and guidance on employee relations policies and procedures. I am familiar with

Spherion's business structure and with its business operations, policies, and practices in California. I am also generally familiar with the clientele and industries Spherion serves, and the manner in which Spherion conducts business in the United States and California.

4. Spherion is a staffing company that provides job assignments to thousands of individuals in California and throughout the United States and Canada. Spherion recruits and hires individuals and assigns them to businesses, government agencies, non-profit entities, and other organizations throughout the country under a variety of different contracts and service agreements. Spherion supplies recruits to almost every industry imaginable including retail, healthcare, construction, legal services, manufacturing, pharmaceuticals, commercial and residential real estate, insurance, mortgage and loan, automotive, plumbing, financial services and banking, securities, consumer credit, engineering, waste collection, education, public utilities, airline, cable and internet, media, business services, packaging and shipping, food services, beverage and wine, bottling, computers and electronics, entertainment and motion picture, transportation, travel and hotel, agriculture, marketing and advertising, telecommunications, publishing, internet, information technology, charitable and religious, military, county and city government, and numerous state agencies.

5. Spherion recruits provide a wide range of services including general labor and production work, administrative and office support, managerial and professional work, and skilled, technical and scientific work. Some recruits perform highly-paid professional services, others perform more general office/administrative support services, and yet others perform manual labor. Spherion recruits may support or supplement regular workforces; provide assistance in special work situations such as employee absences, skill shortages, and seasonal workloads; or perform special assignments or projects. Assignments or projects last anywhere from a few hours to multiple days, weeks, months, or even years.

6. The duties and working conditions of Spherion recruits vary according to the account and project to which they are assigned. Some flex employees are employed on a long-term basis. Other Spherion employees work far shorter assignments for many clients. Spherion's full-time associates are not placed with other companies at all, but work for Spherion

directly and perform daily managerial or administrative tasks related to Spherion's internal operations.

7. Spherion has hundreds of offices throughout the United States with multiple offices in California. Some offices are operated by Spherion directly and service a number of clients in a particular area. Other offices are on the premises of a particular client's office, where Spherion only services that particular client. Yet other offices are run by franchisees or licensees of Spherion. Spherion licensees have and manage their own office employees, while Spherion provides support and management for temporary staff recruited and placed by the licensee. Spherion franchisees on the other hand manage and control both their on-site office staff as well as the temporary staff recruited and placed by the franchisee.

8. Although Spherion has general policies, many of Spherion's policies are customized or modified at the local branch offices or by the franchisees or licensees. These policies are further modified and customized for individual clients, their customers, and various projects. Actual procedures and practices vary widely from office to office, client to client, and project to project.

9. Spherion serves thousands of clients in California. Although Spherion has some longstanding clients, there is a high rate of attrition among a portion of Spherion's clientele as businesses and organizations come and go or sporadically use Spherion's services. Spherion's clientele and the assignments it recruits for changes on a daily basis.

10. Spherion has contractual agreements with many of its clients that govern the employment and working conditions of Spherion personnel. These contractual agreements often involve multiple parties when, for example, Spherion provides staffing for the customers of a client. Working conditions, procedures, and practices for Spherion personnel vary by client and client's customer and depend on the nature of the relationship between Spherion, its clients, and the clients' customers. Some clients require that their own procedures or their customers' procedures affecting employees be utilized, while others follow Spherion's general policies.

11. Spherion is a multifaceted business with a multi-layered organizational structure. Spherion has two primary business units/divisions – Staffing Services and Professional Services.

Recently Spherion has acquired several businesses and these units/divisions have splintered into multiple divisions or groups. Within the Staffing Services unit there are multiple employee classifications with hundreds of different job titles. Within each classification and job title there are employees performing a wide range of activities and duties in a variety of different industries for a variety of different clients. There are so many different types of jobs that Spherion recruits perform that their job titles often do not adequately describe their position in a meaningful way. The job duties of a Spherion employee are highly dependent on individual client and customer needs.

12. My understanding is that Plaintiff Philip Martinet's assignment and employment was very unique. Plaintiff was recruited by Spherion's Professional Services out of a branch office in San Diego. Plaintiff was recruited as a PC Technician.

13. Spherion recruits many individuals for special assignments that have unique duties, operations, and practices. For example, Spherion might recruit for an administrative or clerical position for a hospital in the healthcare industry. Typically a Client Services Supervisor ("CSS") at a local branch would recruit the individual. These types of assignments are often of a short duration - for one day to a couple of weeks. Branch personnel would act as the immediate supervisor, oversee the employee's assignment, and partner with the client in regard to the supervision and management on a flex employee 's day-to-day performance. This type of employee would typically be subject to branch-specific policies, but the employee may also be subject to the client's individual practices and procedures. The nature of the employee's orientation and training and the type of documents given to the employee would depend on the duration of the assignment, the type of client, and nature of the project. Documentation related to the employee's assignment, hours, and working conditions would be primarily kept by Spherion at the local branch office. After completing his or her assignment, this employee may never work for Spherion again or may be reassigned to the same project, a similar project for a different client, or a dissimilar project for a different client in a different industry.

14. Another example would be a Spherion employee who is recruited for a customer service position for a call center in the consulting industry. This employee might be recruited by

Spherion personnel working on-site at the client's place of business. This type of assignment would typically last multiple weeks. Spherion's on-site personnel would act as the immediate supervisor and oversee the employee's assignment along with the client providing input on day-to-day performance. This type of employee would typically go through a site/client-specific orientation and would often be subject to customized policies and site-specific practices and procedures as dictated by the client. Documents related to the employee's assignment, hours, and working conditions may be kept by Spherion's on-site personnel or at the client's place of business.

15. The location of various employee handbooks, human resources documentation, and procedures varies from office to office, division to division, client to client, and project to project. For example, some personnel files are kept at the local branch office while others are kept on a specific worksite with a project or account manager. There have been thousands of different projects staffed by Spherion recruits over the last several years and gathering all the policies and procedures, employee handbooks, and other documents related to each project would be a gargantuan task that would involve hundreds of people and thousands of Spherion's clients. As further described below, the total man-hour expenditure would be 24,800 hours and the total expense would exceed $550,000.

16. I have reviewed plaintiff's first set of interrogatories and document requests and am familiar with the requests plaintiff is making. Interrogatories Number 4, 5, 6, and 7 ask defendant to identify all differences in its meal break policies for employees with different job duties and job titles. Document Request Number 4 and 6 [erroneously numbered 6 instead of 5] asks defendant to produce all documents pertaining to these differences. Document Requests Number 11 and 12 asks for all documents generally pertaining to meal and rest period policies.

17. Document Request Number 3 asks defendant to produce documents that demonstrate its "California-based non-exempt employees, other than PLAINTIFF, have been provided with state-mandated 30-minute meal breaks from September 2003 to the present."

18. Interrogatories Number 8, 9, 10, and 11 ask defendant to identify all differences in its overtime payment policies for employees with different job duties and job titles. Document

Request Number 7 and 8 asks defendant to produce all documents pertaining to these differences and Document Request Number 13 asks for all documents pertaining to overtime compensation.

19. Document Request Number 10 asks defendant to produce any and all employee handbooks that it distributed to its "California-based non-exempt employees that were in force and effect from September 2003 to the present."

20. Interrogatories Number 12 and 13 ask defendant to identify all payroll systems used to pay Spherion recruits from September 2003 to the present.

21. Document Request Number 15, 16, and 17 ask for all documents relating to any training Spherion gave to recruits from January 1, 2003 to the present pertaining to meal periods, rest periods, and overtime.

22. Document Request Number 18, 19, 20, and 21 ask for all documents pertaining to "studies" defendant has done since January 1, 2003 pertaining to meal periods, rest periods, and overtime.

23. To identify, review and gather all the different policies, procedures, handbooks, training materials, and other documents requested by plaintiff for thousands of employees with hundreds of different job duties and titles would require a tremendous amount of work. An inquiry would have to be made as to each client to determine the policies, practices, and procedures in operation on each individual project and assignment. To accomplish this task would require at least a three-step process and would require the involvement of at least three Spherion employees, not to mention the likely involvement of the client and/or its customers.

24. The first step would involve a human-resources ("HR") manager such as myself initiating contact with each branch office, licensee, or franchisee. The HR manager would have to communicate the nature and scope of the requests to each branch or office manager in California. The HR manager would then work with the branch or office manager at each location to identify the steps necessary to obtain the requested information.

25. The next step would require a branch manager, with the help of a branch-level employee (such as a Client Services Supervisor ["CSS"]) to generate a list of clients and accounts for the time period in question and to search for any responsive documents kept at the

branch office level, such as contracts, statements of work, and handbooks. Computers and hard-copy files for hundreds of customers would have to be searched and responsive documents would have to be copied or printed off computers.

26. The third step would require at least one CSS employee at each office location to inquire as to the policies, procedures, and practices applicable to each client/customer cite and/or each project or assignment. This would often require the CSS to reach out to the client directly to determine (a) what policies, procedures, and practices were observed on various projects and assignments and (b) what documents, if any, the client retained related to policies, procedures, and working conditions. In some instances, customers of the client may have to be contacted and asked to search for information and/or documents. Whatever information was gathered during this step, would have to be organized and sent to the HR manager for review.

27. Each of the above steps will vary depending on the customer and the nature of the assignment. I estimate on average that an HR manager would spend 8 hours per each office location that it contacted as part of step one of this process. It is my understanding that there are over 50 office locations in California and an approximate salary for a typical HR Manager is $41 per hour. Thus, I would estimate the first step would take up to 400 hours and cost Spherion over $16,000.

28. I estimate on average that an office/branch manager would spend 8 hours as part of overseeing the investigation and discovery involved with step two. It is my understanding that there are over 50 office locations in California and an approximate salary for a typical branch office manager is $34 per hour. Thus, I would estimate the second step would take up to 400 hours and cost Spherion over $13,000.

29. I estimate on average that a branch CSS employee would spend 8 hours per client to search for information and documents as part of step number 3. It is my understanding that there are over 3,000 clients in California and an approximate salary for a typical CSS employee is $22 per hour. Thus, I would estimate the third step would take up to 24,000 hours (or roughly 480 hours for each CSS) and cost Spherion approximately $528,000.

30. The above estimates could easily be overrun because in many instances it will likely be more difficult and will likely take longer to locate documents. In situations where an assignment or project only lasted one day or in situations where a short-term assignment occurred several years ago, it may be very challenging to find documents and information related to that assignment. It may take several hours of investigation to find a particular client's contact information or the particular service contract or work order that applied to such a project. The recent acquisitions of several companies and the splintering of Spherion's business units/divisions will also likely create untold problems. Other difficulties will likely surface including: client businesses that are no longer operating, employees or managers who have contact information regarding clients but are no longer employed with Spherion, and documents or data that have been archived and are not easily accessible.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on April 16, 2008, in Dallas, Texas.

Joan L. Orzo